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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,619	02/12/2001	Gonzalo Lucioni	449122002700	9110
25227	7590	11/01/2005		
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			EXAMINER JUNTIMA, NITTAYA	
			ART UNIT 2663	PAPER NUMBER

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/780,619	LUCIONI, GONZALO	
	Examiner	Art Unit	
	Nittaya Juntima	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6, 9 and 13 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 4, 5, 7, 8, 10, 11 and 14 is/are allowed.
- 6) ☒ Claim(s) 2, 12 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 8/10/2005.
2. Claims 3, 6, 9, and 13 were cancelled.
3. Claims 1, 4-5, 7-8, 10-11, and 14 are allowed.
4. Claims 2, 12 and 15 are presently rejected under 35 U.S.C. 103(a).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardwick et al. ("Hardwick") (USPN 5, 649, 050).

Regarding claims 2 and 12, Hardwick teaches a communication system (Fig. 3) for transmitting audio (speech) data including samples of an audio signal via a packet-oriented communication network (since speech samples are transmitted in packets, col. 12, ll 43-47, therefore, a packet network must be included for transmission), comprising:

A monitoring unit (switch 318 must include a monitoring unit to detect a control signal provided by the feedback module 326, col. 5, ll 1-10 and 40-48) for detecting an information item (a control signal provided by the feedback module 326) relating to the transmission of data packets containing audio data (packets containing speech samples, col. 12, ll 43-47).

A digital timescale conversion device (TSM 324) for converting the audio data by changing the duration of an audio signal (compressing the time scale) represented by the audio data while retaining a pitch of the audio signal (col. 5, ll 1-6 and col. 6, ll 15-42), wherein the duration being modified based on the detected information item (a control signal provided by the feedback module 326, col. 5, ll 40-48), a QoS of the audio transmission is optimized (overcome buffer lag artifact, col. 6, ll 1-19) with regard to a current transmission situation (open/closed condition of channel 308, col. 5, ll 40-48) indicated by the detected information item.

A control unit (switch 318) for controlling the change in duration based on the information item detected (after receiving a control signal from the feedback module 326, the switch 318 directs the audio signal to the TSM for time scale compression, col. 5, ll 1-6 and 40-48).

Hardwick does not explicitly teach that the transmission of the data packets is monitored by a receiving communication system and an information item relating to the transmission is transmitted to a transmitting communication system.

However, Hardwick further teaches a receiving communication system (a receiver 310, col. 5, ll 19-22), and suggests that the feedback module 326, which transmits the control signal to the switch to trigger the TSM 324 for time scale modification, can be implemented by a receiver which monitors signals acknowledging proper receipt of transmitted voice packets (col. 5, ll 7-10 and 40-48).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Hardwick to include the Feedback module implemented by the receiver such that the transmission of the data packets is monitored by a receiving

communication system (the receiver 310) and an information item relating to the transmission (the control signal provided by the feedback module 326) is transmitted to a transmitting communication system (320 in Fig. 3) and the audio data are converted by the transmitting communication system based on the information item transmitted as recited in the claim. The motivation/suggestion to do so would have been to implement the feedback module 326 in the receiver as suggested by Hardwick (col. 5, ll 7-10).

Regarding claim 15, it is inherent that the digital timescale conversion device (TSM 324 in Fig. 3) must exhibit a digital signal processor for converting the audio data using the time scale modification method (col. 6, ll 15-42).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 8:00 A.M - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2663

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nittaya Juntima  
October 21, 2005

*NS*

*Ricky Ngo*  
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